

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shevani Patel	Team: Squad #3	CCRB Case #: 201503451	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 04/18/2015 8:43 PM	Location of Incident: 156 West 119th Street and the 28th Precinct stationhouse	Precinct: 28	18 Mo. SOL 10/18/2016	EO SOL 10/18/2016	
Date/Time CV Reported Fri, 05/01/2015 1:43 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 05/01/2015 1:43 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Hughes	31491	952867	028 PCT
2. POM Robert Uhl	31803	953507	028 PCT
3. POM Bradley Kucyk	14955	947144	028 PCT
4. LT Thomas Kelly	00000	936854	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Bradley Kucyk	Force: PO Bradley Kucyk used physical force against § 87(2)(b)	
B.POM Bradley Kucyk	Discourtesy: PO Bradley Kucyk spoke rudely to § 87(2)(b)	
C.POM Robert Uhl	Force: PO Robert Uhl used physical force against § 87(2)(b)	
D.LT Thomas Kelly	Force: Lt. Thomas Kelly used physical force against § 87(2)(b)	
E.POM Matthew Hughes	Force: PO Matthew Hughes used physical force against § 87(2)(b)	
F.POM Bradley Kucyk	Abuse: PO Bradley Kucyk threatened § 87(2)(b) with the use of force.	

### Case Summary

On April 18, 2015, PO Matthew Lieberman of the 28<sup>th</sup> Precinct called the command center to report an injured prisoner, § 87(2)(b) IAB generated log number 15-11293 and referred the case to the CCRB on May 1, 2015 (Board Review 01).

On April 18, 2015, at approximately 8:43 p.m., § 87(2)(b) was traveling westbound on one-way West 119<sup>th</sup> Street towards 7<sup>th</sup> Avenue in Manhattan on his dirt bike, carrying a passenger, whose name he did not know. § 87(2)(b) was not wearing a helmet, and his bike did not have headlights on. His passenger jumped off the dirt bike. § 87(2)(b) noticed PO Robert Uhl of the 28<sup>th</sup> Precinct running towards them. § 87(2)(b) turned his dirt bike around and proceeded the other way, in the opposite direction of traffic, to avoid any incident. Immediately, while the bike was in motion, PO Bradley Kucyk of the 28<sup>th</sup> Precinct placed both of his arms around § 87(2)(b)'s torso and tackled him off of the bike (**Allegation A**). PO Robert Uhl, Lt. Thomas Kelly and PO Matthew Hughes of the 28<sup>th</sup> Precinct approached and attempted to handcuff § 87(2)(b). PO Kucyk said, "Give me your fucking arm" (**Allegation B**). § 87(2)(b) alleged that he was punched approximately ten times on the left of his face by an officer identified by investigation as PO Uhl, PO Kucyk, Lt. Kelly and PO Hughes (**Allegation C, D and E**). In order to protect himself, § 87(2)(b) refused to go under arrest by holding both of his arms stiff. After ten minutes, PO Kucyk said, "Listen. If you keep moving, I'm going to break your arm" (**Allegation F**). At that point, § 87(2)(b) allowed the officers to pull his arms behind his back and handcuff him. § 87(2)(b) was treated at § 87(2)(b) where he was diagnosed with a left nasal bone fracture, abrasions below his left eye and to his right elbow and swelling to his forehead (Privileged Documents).

§ 87(2)(b) was charged with § 87(2)(a) 160.50

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Video Footage



muhammad.mp4

### Mediation, Civil and Conviction Histories

- This case was unsuitable for mediation because of a civil lawsuit.
- On June 9, 2015, § 87(2)(b) filed a Notice of Claim with the City of New York, claiming injury and seeking ten million dollars as redress (Board Review 04).
- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officers CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 06).
- PO Kucyk has been a member of the NYPD for seven years. This is the first complaint with allegations against him.

- PO Uhl has been a member of the NYPD for three years and has had six previous CCRB allegations involving two cases. Each of these cases had a physical force allegation with one unsubstantiated and the other was closed complainant uncooperative. In case number 201301777, an entry and search allegation and a stop allegation were substantiated.
- Lt. Kelly has been a member of the NYPD for 10 years, and has had six previous CCRB allegations involving three cases. In case number 201402848, an entry and search allegation was substantiated. He received formalized training.
- PO Hughes has been a member of the NYPD for one year. This is the first complaint with an allegation against him.

#### **Potential Issues**

- § 87(2)(b) did not cooperate with the CCRB's attempts to obtain from him the names and contact information for witnesses.
- § 87(2)(b) provided a cell phone video of the incident. The video had no sound. § 87(2)(b) did not cooperate with the CCRB's attempts to obtain from him a copy of the video with sound, which he acknowledged existed.

#### **Findings and Recommendations**

##### **Allegations not pleaded**

- **Strip search:** § 87(2)(b) alleged that after he was searched at the front desk, officers took him into a small holding cell and removed his handcuffs. Officers searched § 87(2)(b)'s pockets again. Because he was frustrated that he was being continuously searched, he removed all of his clothes. No officer asked him to take off his clothes. According to PO Uhl, within about a minute or two of searching § 87(2)(b)'s pockets, he became very agitated. He yelled, took off his shirt and pulled his pants and underwear down to his ankles. PO Uhl ordered him to put his clothing back on. § 87(2)(b) did. PO Uhl never directed § 87(2)(b) to take off his clothes. PO Uhl was never instructed by Lt. Kelly or any other supervising officer to conduct a strip search on § 87(2)(b) § 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)
- § 87(2)(g)  
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§ 87(2)(g)  
§ 87(2)(g)

**Allegation A –Force: PO Bradley Kucyk used physical force against § 87(2)(b)**

**Allegation C –Force: PO Robert Uhl used physical force against § 87(2)(b)**

**Allegation D –Force: Lt. Thomas Kelly used physical force against § 87(2)(b)**

**Allegation E –Force: PO Matthew Hughes used physical force against § 87(2)(b)**

§ 87(2)(b) provided a phone statement on June 4, 2015 (Board Review 08). He provided a sworn statement on September 18, 2015 (Board Review 09). § 87(2)(g)  
§ 87(2)(b) was traveling 5 to 10 miles per hour on a one-way street on a dirt bike with a passenger. His passenger jumped off the dirt bike. § 87(2)(b) stopped and noticed PO Uhl running towards them. § 87(2)(b) turned his dirt bike and proceeded the other way to avoid incident with PO Uhl. While the bike was in motion, PO Kucyk placed both of his arms around § 87(2)(b)'s torso and tackled him off of the bike.

§ 87(2)(b) landed on the left side of his face and PO Kucyk landed on top of him. He heard officers tell him not to resist and to give his arms. Because he was face down, § 87(2)(b) could not see how many officers were around him. § 87(2)(b) was punched approximately ten times on the left of his face by officers who he could not see. In his phone statement, § 87(2)(b) stated that he was unable to estimate the number of times he was punched. In order to protect himself, § 87(2)(b) refused to go under arrest. His left arm was perpendicular to his body. Officers held it down. They tried to pull his right arm behind his back, but he locked it straight out. Because the officers were on top of him, he was unable to move his torso or any other part of his body. § 87(2)(b) allowed the officers to pull his arms behind his back and handcuff him after PO Kucyk told him that he would break his arm.

§ 87(2)(b) was treated at § 87(2)(b) where he was diagnosed with a depressed left nasal bone fracture, an abrasion below his left eye, a 3.6 centimeter abrasion to his right elbow and a medium sized bump to his forehead (Privileged Documents). These injuries are corroborated by the command log entry for his arrest (Board Review 10), the medical treatment of prisoner report (Board Review 11) and his arrest photograph (Board Review 12). § 87(2)(b) provided four photographs of his face taken on April 20, 2015, which confirm the injuries noted above (Board Review 13-16).

§ 87(2)(b) did not cooperate with the CCRB's attempts to obtain from him the names and contact information for witnesses.

§ 87(2)(b) provided a cell phone video of the incident (Board Review 17 for the video; Board Review 18 for a detailed transcription). The video is one minute and 21 seconds long. It is dark, making it difficult to make out several details. It does not depict the stop of the bike. § 87(2)(b) is seen on the ground. PO Uhl is kneeling to on the left of § 87(2)(b)'s upper body, PO Kucyk is on his legs to the left and Lt. Kelly and PO Hughes are to § 87(2)(b)'s right. § 87(2)(b) lifts his body and moves forward causing PO Uhl to fall on his back. § 87(2)(b) appears to be over him until moving to the left. PO Kucyk and PO Hughes continue to hold onto § 87(2)(b). Lt. Kelly stands up and walks to PO Uhl's right side and attempts to grab § 87(2)(b) pulling for about ten seconds. RMPs arrive on scene, partially obstructing the view of the apprehension. A struggle is clear, but no specific actions could be made out. One minute into the video, the officers remove themselves from § 87(2)(b). He is seen sitting up as the video concludes.

PO Uhl was interviewed at the CCRB on August 5, 2015 (Board Review 19). PO Uhl and PO Hughes responded to a radio run of shots fired. Approximately 20 to 30 seconds later, PO Uhl observed a dirt bike traveling westbound. He observed multiple VTL infractions. He ordered the dirt bike to stop from about ten feet away. The bike turned 180 degrees left to travel eastbound, which was the wrong way on a one-way street. PO Kucyk walked onto the street attempted to grab the passenger who hopped off of the bike and fled eastbound on foot.

PO Kucyk grabbed § 87(2)(b) around his waist. PO Uhl approached the same side and grabbed around his shoulders. The bike stalled and § 87(2)(b) restarted it. He dragged the officers about five feet as it fell to the left. They fell forward and left off of the bike. The bike was near PO Uhl's feet, as PO Kucyk landed around § 87(2)(b)'s waist. PO Uhl tried to grab onto § 87(2)(b)'s left arm, but was unable to because § 87(2)(b) attempted to get away. He turned towards the officers and tried to punch and kick them, but never made any contact with PO Uhl. PO Uhl punched § 87(2)(b) a single time in his face in order to get his arms as § 87(2)(b)

§ 87(2)(b) attempted to punch back. He could not recall what side of the face or where specifically on the face he struck him. PO Uhl did not strike § 87(2)(b) additional times. He did not see any other officer punch him. PO Uhl grabbed § 87(2)(b)'s left arm, forced it behind his back and handcuffed it. § 87(2)(b) tried to stand up by pushing his feet against the officers to lift himself up. He forced his right arm into his jacket. Another officer, who PO Uhl could not see, grabbed his right arm from underneath him. He was handcuffed.

PO Kucyk was interviewed at the CCRB on July 30, 2015 (Board Review 20). § 87(2)(g) An unidentified man told him that the shots came from the 7<sup>th</sup> Avenue direction and described a “smaller, younger black male with a black hoodie that was up” who ran eastbound. About 30 seconds later, PO Kucyk saw the dirt bike coming westbound towards PO Uhl and PO Hughes. It turned around before colliding with them. The passenger matched the description provided to him. The bike came from the direction that the witness told him the man ran. Because the bike turned so quickly, PO Kucyk did not make any verbal attempts to stop the bike. He saw no officer punch § 87(2)(b).

PO Hughes was interviewed at the CCRB on July 10, 2015 (Board Review 21). § 87(2)(g) The arrest documentation (Board Review 02) and criminal complaint report (Board Review 07), prepared by PO Hughes, note that § 87(2)(b) punched and kicked at the officers.

Lt. Kelly was interviewed at the CCRB on July 31, 2015 (Board Review 22). § 87(2)(g) He said that during the apprehension, he used the flat side of his forearm and his elbow to strike § 87(2)(b)'s shoulder, back and chest areas. He could not recall how many times he did this or if he made contact with his face.

Line-of-duty injury and AIDED reports were prepared for PO Uhl, Lt. Kelly and PO Kucyk. They note that § 87(2)(b) violently resisted arrest, causing Lt. Kelly to fall to his right knee causing a contusion, abrasion and substantial pain (Board Review 24) and causing PO Uhl to be dragged by a motorbike falling to the ground causing injuries to his left elbow, both knees and left ankle (Board Review 25), and causing PO Kucyk to be dragged by a motorbike causing injuries to both knees and both elbows (Board Review 26).

Patrol Guide Procedure 203-11 authorizes an officer to use the minimum amount of force necessary to effect an arrest (Board Review 27).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g) [Redacted]  
[Redacted]

§ 87(2)(g) [Redacted]  
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§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]  
[Redacted].

**Allegation B –Abuse of Authority: PO Bradley Kucyk spoke rudely to § 87(2)(b)**

**Allegation F –Abuse of Authority: PO Bradley Kucyk threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) alleged that while he resisted arrest, PO Kucyk told him, “Give me your fucking arm,” and, “Listen. If you keep moving, I’m going to break your arm.” PO Kucyk denied making either of those statements, using profanity or threatening to break § 87(2)(b)’s arm. PO Uhl, Lt. Kelly and PO Hughes, the only three officers present during the apprehension, did not hear PO Kucyk make either of these statements. The video provided by § 87(2)(b) did not include any sound (Board Review 17). § 87(2)(b) failed to cooperate with the investigation’s attempts to obtain contact information for witnesses. § 87(2)(g) [Redacted]  
[Redacted]

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Squad

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date